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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 26th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 April 1999, at 6 p.m.

Chairperson: Mr. BAUMANIS (Latvia)
(Vice-Chairperson)

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The meeting was called to order at 6 p.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (agenda item 11) (continued)

(E/CN.4/1999/39 and Add.1, 53-55, 56 and Add.1-2, 57, 58 and Add.1-2, 59, 60, 61 and Add.1, 62 and Add.1 and Corr.1 and Add.2, 63 and Add.1-4, 64 and Add.1-2, 65, 111 and 128; E/CN.4/1999/NGO/21-26, 30, 31, 36, 37, 43, 50-52 and 62; A/53/283 and Corr.1 and 501; A/RES/53/139; E/CN.4/Sub.2/1998/19; E/CN.4/Sub.2/1998/SR.24, 27, 28 and 35)

1. Mr. MONOD (War Resisters International), noted that conscientious objection had gained a recognized place among civil and political rights as part of the right to freedom of thought, conscience and religion.

2. In theory conscription addressed the need for the State to defend itself against external and internal armed aggression. Yet in many places such as Kosovo, Chiapas and Kurdistan it would indeed be difficult to convince the population that the army's aim was to protect it. When a city was attacked the political rights of its inhabitants were manifestly violated. Although there was no easy answer to the problem of how to ensure respect for civil and political rights, war was clearly incompatible with the realization of those rights. The military intervention in the former Yugoslavia had served only to exacerbate the violence.

3. Article 3 of the Universal Declaration of Human Rights recognized the right to life, liberty and security of person. Yet conscientious objection was recognized by only a few countries, and draft evaders and deserters were regularly accused of cowardice. Some were executed, others imprisoned and still others mutilated. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment should include the subject of objectors and deserters in his mandate and should report on their situation.

4. Mr. PERERA (World Federation of United Nations Associations) said that the position of the Saudi Arabian Government with regard to freedom of religion, which meant that there should be no coercion in religious matters, was at variance with the positive concept of religious freedom.

5. The right to provide children with access to religious education in accordance with the wishes of their parents or guardians was included in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and consolidated by provisions of two other Declarations, two international Covenants and two international Conventions, yet that right was regularly violated by Governments.

6. The violent incidents recently perpetrated against Christian communities in India had taken place because politicians had resorted to religious chauvinism for political gain and could not later control the forces they had unleashed. The Indian Government should take speedy and effective measures to root out that evil.

7. Mr. BELO (Asian Buddhists Conference for Peace) said that in 1995 and 1997 he had been arrested in East Timor for his peaceful political activities and subjected to electric shocks and beatings which had left him unconscious. In 1998, while still in captivity and with his life in danger, he had been the subject of a letter-writing campaign by Amnesty International, as a result of which he had finally been released.

8. The Timorese population continued to be subjected to human rights violations by the Indonesian authorities. Some 40 people had recently been killed in Liquica by civilian militias backed by the Indonesian military. He appealed to the Commission to exert as much pressure as possible on the Government of Indonesia to stop violating the human rights of the people of East Timor and in the Moluccas.

9. In India members of the military were empowered under the Armed Forces Special Power Act of 1958 to shoot people on suspicion of breaking the law. There were many deaths in custody and summary executions.

10. In Tibet, the Chinese Government had failed to respond positively to the proposal put forward since 1987 by the Dalai Lama for a peaceful solution to the political problem. The Government should negotiate without preconditions, and should release nine-year-old Gedhun Choekyi Nyima, the eleventh Lama of Tibet.

11. Mr. KAZMI (Al-Khoei Foundation) expressed concern about the increasing use of religious intolerance as an instrument of Government policy. In Kosovo atrocities had been committed against ethnic Albanian Kosovar Muslims by zealots who justified their actions by referring to their Christian identity and to perceived historical enmities. Both Islam and Christianity were religions of peace and tolerance. Extremists should not be allowed to arrogate to themselves the legitimacy which would allow them to perpetuate such atrocities.

12. The secular Government in Iraq was involved in a consistent and relentless campaign against Shi'ite Islam. The assassination on 19 February of Ayatollah al-Sadr in the holy city of Najaf was the latest crime in a series of abuses aimed at the highest spiritual authorities in the Shi'ite world, whose influence went well beyond the country's borders.

13. In Afghanistan, the Taliban authorities continued to enforce a distorted interpretation of Islamic rule, resulting in discrimination on both ethnic and religious grounds against the Hazara minority. There had been mass killings of the Hazaras in Mazar-i-Sharif, and many Hazaras had been forcibly displaced. The Taliban also misused religion to legitimize persecution on the basis of gender, as they denied women health care, education and freedom of movement.

14. Ms. McELREE (Amnesty International) said that human rights violations committed in Algeria by both the security forces and armed groups had been the subject of a wall of silence which the Commission had done little to break. Torture, extrajudicial executions, arbitrary arrests and secret detention had become routine, and more than 3,000 people had disappeared. The Government continued to refuse access to the Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions, despite its promise to set dates for their visits. At the Commission's previous session, several countries had stated that they would reconsider their position if the Algerian Government still refused to cooperate with the Special Rapporteurs. Decisive action was required. The Commission should call for full implementation of the recommendations made by the Human Rights Committee in July 1998, appoint a special rapporteur and urge the Government to invite the thematic Special Rapporteurs and the Working Group on Enforced or Involuntary Disappearances to visit the country.

15. The report of the visit of the Special Rapporteur on Torture to Turkey, where torture and disappearances had cost the lives of many people, had correctly concluded that torture remained widespread, although there had been some progress in combating it. The Government of Turkey should comply with the Special Rapporteur's recommendations, and specifically ensure that detainees had prompt access to a lawyer. It should also establish an independent body to visit and report on any place of detention in the country.

16. The Special Rapporteur on the independence of judges and lawyers had concluded in 1998 that lawyers in Northern Ireland were systematically subjected to intimidation and harassment by the police. The killings of Patrick Finucane and Rosemary Nelson underscored concern that the failure of Governments to protect lawyers undermined the rule of law. The Government of the United Kingdom should call for independent inquiries into the killings.

17. Mr. GRAZ (General Conference of the Seventh Day Adventists) regretted the ambiguity in the use by Governments and the media of certain terms, including the words "sect" and "proselytizing". One man's sect was another's religion, and proselytizing to some would be evangelizing to others. The Commission should take a clear stand regarding those concepts.

18. Certain democratic countries which claimed to defend human rights had published very subjective lists of hundreds of supposedly dangerous "sects", some of which had been assimilated with terrorist organizations. Was it the role of the State to draw up lists of good and bad religions? Was it not sufficient to punish crimes and criminals by simply invoking the penal law? Such lists fuelled intolerance, led to discrimination and were a source of anguish for tens of thousands of upstanding families.

19. Many Governments, especially in South America and Europe, had taken steps to improve freedom of religion, and the United States had adopted the International Religious Freedom Act of 1998. Spain, Norway and Romania had held some very open meetings on the subject. The only way to protect freedom and defend justice and peace was through dialogue.

20. Ms. MACKENZIE (International Federation of Journalists) said her organization had long contended that access to and the dissemination of information were not just human rights, but the guarantee of those rights, and that restrictions on the media should be regarded as warnings of worse to come. In late 1998 it had, for instance, informed the international community of a Serbian crackdown on the coverage of events in Kosovo.

21. Action could easily be taken to improve freedom of the press in a number of countries. In Burkina Faso, the Commission should request the Government to conduct a full investigation into the assassination of Norbert Zongo, who had denounced corruption and violent crime perpetrated by the authorities. The Commission should also call on Cuba, which was holding 28 journalists in detention, to refrain from enforcing repressive press laws.

22. In Ethiopia, there was a lack of information on journalists in detention, and independent reporters were denied access to information. In Paraguay, journalists and demonstrators had been the target of snipers allegedly working on behalf of the former President, and in Peru the Government continued to harass the owner and employees of a television station. The offences allegedly committed by two journalists in Togo were not punishable by imprisonment yet the accused had already spent months behind bars. Eleven journalists of the Zambian newspaper The Post faced espionage charges for running a single story, and in Zimbabwe two reporters had been arrested, tortured and held illegally before being set free. The Commission should call for effective measures to be taken by the authorities in each of those cases.

23. Mr. LIYANAGE (Asian Legal Resource Centre) said that, with few exceptions, international efforts to deal with disappearances had been confined to pursuing individual officers instead of identifying Governments as the culprits. Disappearances could involve a number of groups carrying out different tasks. Normal murder charges were likely to prove insufficient to deal with such a complex situation.

24. In Sri Lanka, for example, four commissions had looked into some 26,800 cases, and three had confirmed an orchestrated and systematic practice of disappearances. If a national commission had found that a systematic practice had occurred, was the international community not obliged to take appropriate action?

25. The international community could recommend specific steps to deal with the institutional framework, and not just individual cases. Western States could exercise greater scrutiny concerning the problem and could offer assistance in criminal investigations, for example by providing forensic facilities. The Government should be reminded of the gravity of the situation by United Nations agencies and in bilateral relations with all States. The

question of whether the problem was to be tackled by invoking positive or negative practices depended largely on the way in which the international community dealt with it.

26. Ms. BECHARA (North-South XXI) said that she had come to bear witness to the suffering of thousands of people who had been held captive in Israeli jails or in the Al-Khiam detention camp located in the area occupied on behalf of the Israelis by Antoine Lahd. She herself had spent 10 years in the Al-Khiam camp. She had been subjected to multiple forms of torture and to total and permanent isolation for six years.

27. Some inmates had died from the whipping or electric charges, and others had been shot. There were also mothers who had been isolated from their children for months or years, youths arrested when under the age of 12, and sick and elderly prisoners. Some were imprisoned to bring pressure to bear on their relatives; others were not told the reasons for their detention. One had had his leg amputated and was still in the camp, 14 years later. Al-Khiam was a place where the idea of a trial was unknown, where arbitrary detention and torture were rampant, where 16 inmates had died and where 120 were still being held.

28. The Israeli Supreme Court, in violation of international law, had upheld a Government ruling that Lebanese detainees could be taken as hostages with a view to later prisoner exchanges.

29. The Commission should consider the question of detainees in Israeli jails and the Al-Khiam camp, urge the closure of the camp, which violated international law, denounce the decision of the Supreme Court, condemn the Israeli occupation, and call for the implementation of resolution 425, and in particular for the immediate and unconditional withdrawal of Israeli forces from Lebanese territory.

30. Ms. PICKRELL (Friends World Committee for Consultation (Quakers)) welcomed the fact that the Commission, in adopting resolution 1998/77, had recognized the right to conscientious objection as a legitimate exercise of the right to freedom of thought, conscience and religion. The resolution established clear, workable standards for the recognition of conscientious objection, the provision of alternative forms of service, prohibitions on discrimination and repeated punishment and the need for asylum when there was no adequate provision for conscientious objection.

31. Too many States had not implemented those standards, and conscientious objectors were still subjected to imprisonment, harassment, ill-treatment and discrimination. States should set a timetable for the review of their laws and practices and declare an immediate moratorium on legal action taken against conscientious objectors to military service. The Office of the United Nations High Commissioner for Refugees should ensure that asylum was given to objectors compelled to leave their countries out of fear of persecution.

32. Mr. VERFAILLIE (International Association for the Defence of Religious Liberty) said that the report of the Special Rapporteur on religious intolerance had noted that the problem of religious intolerance had been

witnessed in countries with different levels of development and with various political, social and religious systems, thus disproving the idea that the problem resulted solely from a lack of enlightenment.

33. In France and Belgium, religious intolerance and discrimination had been on the rise against faiths which had been jumbled together as "sects" in lists drawn up by parliamentary commissions, without any regard for the fact that the term "sect" had no legal or sociological definition. The two States had even begun political campaigns against sects, thus challenging the separation of religion and the State. The silence of the French and Belgian authorities, which had done nothing to stop the misuse of the parliamentary reports, was astonishing. Perhaps it reflected an anti-religious strategy which had been adopted by the two Governments.

34. Mr. SAFA (Arab Organization for Human Rights) drew attention to the plight of the 170 Lebanese hostages held without trial or warrant by Israel, of whom 128 were in the Al-Khiam detention camp and the rest in three Israeli prisons. Since the establishment of the Al-Khiam camp, 14 prisoners had died there from torture, and two more had died in hospital shortly after their release. Conditions at the camp were unhealthy, and illness rife.

35. The transfer of captives from Israeli-occupied Lebanese territory to prisons within Israel was a serious violation of the Fourth Geneva Convention. In a major and unprecedented breach of international law, the Israeli Supreme Court had ruled that it was legal to detain Lebanese citizens with the purpose of using them as bargaining chips in prisoner exchanges.

36. The international community should condemn the Israeli Supreme Court's decision and call on Israel to release immediately prisoners who were sick, under-age or had finished serving their sentences, to free all Lebanese hostages and close down the Al-Khiam camp, and to pay compensation to the families of those detainees who had been killed while being tortured.

37. Mr. PONNAMBALAM (International Association of Democratic Lawyers) said that the Government of Sri Lanka was in serious breach of its obligation to ensure the rights recognized by the International Covenant on Civil and Political Rights, and in particular freedom of expression. As the Secretary-General of the oldest Tamil political party in Sri Lanka, he had said in an interview that he supported the political ideology of the Liberation Tigers of Tamil Eelam (LTTE), a banned group. Following his statement, he had been subjected to numerous written and verbal attacks and threats from Sinhalese racists.

38. Disappearances continued to be a serious problem, and one which was aggravated by a culture of impunity. For example, in February 1999 a human head had been found in a drain opposite the Jaffna New Market. It had later been revealed that the victim's identity card had been with the army at one of the Vadamarachchi checkpoints, and his torso had been found in a cess pit of an abandoned house, some 25 miles away from where the head had been found. Fifteen army checkpoints had lined the road between the two places.

39. Mr. MENDEL (Article XIX: the International Centre Against Censorship) said that full respect for freedom of expression was particularly important in

the fight against corruption, as investigative journalism played an increasingly recognized role in exposing corrupt practices and promoting transparent and accountable government. Nonetheless, journalists were all too often deterred from publishing stories by harsh defamation laws. Defamation laws should not be used to stifle criticism of Governments, and public figures should be required to tolerate a higher degree of criticism than ordinary citizens.

40. No liability should ensue if journalists adhered to reasonable standards of professionalism. Sanctions for defamation should not be so heavy as to paralyse freedom of expression. Public apology and correction should significantly mitigate damage awards. The Special Rapporteur on freedom of opinion and expression should include the subject of defamation laws in future reports.

41. Mr. SELBMANN (Society for Threatened Peoples) said that reports of death sentences and executions in Xinjiang Province in China were arriving almost on a weekly basis. Many death sentences had been imposed for alleged participation in unrest which had taken place in February 1997, when fighting between Uigurs, Han Chinese and the police had resulted in 200 Uigur and 100 Chinese deaths.

42. Between 1949 and 1973 the Han Chinese minority had grown from under 4 per cent of the population to nearly 40 per cent. Uigurs faced the prospect of becoming a minority in their own land.

43. Peaceful demonstrators were systematically branded as "Muslim nationalists" or "separatists". They and other Uigurs faced arbitrary detention and were sometimes held for months without arraignment in violation of the Chinese Code of Criminal Procedure, which called for charges to be brought within two weeks. In some cases minors had been arrested and their parents had not been notified of their whereabouts for months.

44. Mr. ABEYWARDANE (International Peace Bureau) said that the situation of civil and political rights in Sri Lanka had been rapidly deteriorating for 16 years. Although it was assumed that in the south Tamils enjoyed fundamental freedoms and rights, arbitrary arrest and torture were routine. About 1,650 Tamils were in captivity and being held in extremely poor conditions of detention. Numerous instances of arbitrary arrest and ill-treatment had been reported, including humiliating forms of torture, persistent disregard for the prescriptions of medical staff and forced confessions. Even when torture resulted in death the authorities held no inquiries.

45. Sinhala chauvinism instigated by the State had made the majority of the Sinhala people oblivious to the suffering of their Tamil brothers and sisters in the south. The silence of the international community had been deafening. The Commission should take immediate steps to condemn Sri Lanka's human rights violations, for example by appointing a rapporteur to investigate and report on the situation in the country.

46. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that the policy of dispersing Basque prisoners into 70 prisons far from

the Basque country had the effect of exposing them to torture and ill-treatment and compromised their ability to defend themselves legally. The policy of the French and Spanish Governments was clearly contrary to international and European standards for the treatment of prisoners. The Basque people and Parliament had called for the practice to end, and the Commission should declare that the policy was not permissible.

47. A symbol of impunity had fallen when General Pinochet, who had committed grave crimes against humanity, had lost his immunity as a former head of State. He had been helped to power by foreign forces allied with the dominating classes in Chile, with the aim of defending their economic interests. The same had occurred throughout Latin America. Under international law, aiding and abetting crimes against humanity would be punishable as well. Henry Kissinger, Edward Korry, Paul Wimert, Henry Hecksher and John MacCone were among those who should therefore be prosecuted in the United States or deported for trial.

48. Mr. PANDITA (African Commission of Health and Human Rights Promoters) said that the emergence of religious militias sponsored by extremist religious organizations with the overt or covert support of certain States had led to heinous crimes and gross violations of human rights. The cold-blooded murder of 21 members of a religious minority in Kashmir on 19 and 20 February 1999 was the seventh such massacre committed against that defenceless community in just two years, thus challenging the universal acceptance of the notion that religion and State could be separated in pluralist societies. Where a particular faith enjoyed outright State patronage, followers of other faiths were disadvantaged.

49. In many parts of the world parallel school systems existed in which faith and religious practice took precedence over traditional education and could generate a climate of intolerance. On the other hand, certain Arab States, and in particular Morocco, were to be commended for having revised their school textbooks so that they recognized and respected religions other than Islam. The mandate of the Special Rapporteur on religious intolerance could perhaps be extended to monitor progress in the various educational systems.

50. Dialogue among civilizations was crucial. The Commission should set up a committee of experts to discuss and formulate a mechanism for such a dialogue. It was not enough to overcome hatred. There was a need to be proactive to ensure peaceful coexistence.

51. Mr. GRAVES (Interfaith International) said that the proposed new constitution of Sri Lanka would give an even more meaningful place to the Buddhist clergy in Government affairs, thus threatening to make the Hindu Tamil minority second-class citizens. Religion was being used to exacerbate political tensions. The Sri Lankan army had destroyed at least 1,050 Hindu temples since the beginning of the war. Worship was restricted and the number of Hindu holidays recognized by the Government had been reduced.

52. In the Sudan, the Government's enforcement of fundamentalist religious and cultural policy and indoctrination of young persons had targeted not only non-Muslims, but also moderate followers of Islam, who had been the target of

violent attacks in recent years. Christians and followers of traditional African religions faced serious disadvantages, as they were subjected to the provisions of Islamic law. Some Catholic priests had reportedly been unjustly arrested for their supposed participation in certain attacks.

53. In Bahrain the Government had held a prominent religious leader, judge and former member of Parliament, Sheik Al-Jamri, in detention since April 1995, beyond the three-year limit for administrative detention, for advocating constitutional reform and calling for the Government to end its sectarian policy against the Shi'ite majority. The Government should respect all religious groups within Bahrain.

54. Mr. WAREHAM (International Association against Torture) said that Spain's mistreatment of Basque political prisoners was typified by the case of Esteban Esteban Nieto, who had been held at seven prisons over a period of 12 years and who had faced nine months in complete isolation, unable to see or touch anyone or anything. Diagnosed with hepatitis C and pancreatitis in 1996, he had had no medical examination until March 1999, when it had been ascertained that he had cancer in his liver, lungs and pancreas and would soon die.

55. In the United States, where the prison population stood at 1.8 million and was growing, the building and maintenance of prisons had become the economic lifeline of many rural communities. Companies thrived off the slave labour in prisons, where prisoners received 22 cents per hour, for instance to produce clothes for Victoria's Secret or make reservations for Trans World Airlines.

56. The super-maximum security prisons which were proliferating in the United States were no more than sensory deprivation tanks and sophisticated forms of torture which had been used for the mistreatment of political prisoners such as Sekou Odinga, Mutulu Shakur, Ray Luc Levasseur, Oscar Lopez Rivera, Leonard Peltier and others. Excessive force was regularly applied by police services in the United States, especially against Blacks, Hispanics, Asians and indigenous people, as had been illustrated when a Guinean immigrant had been shot 41 times by four New York City policemen. Since 1992 secret evidence had been considered admissible in opposing requests by asylum seekers for political asylum, release on bond and other relief from deportation. More than 25 people, all of whom were Muslim Arabs, had thus been languishing in prison, some for more than two years, on the basis of secret allegations that neither they nor their lawyers could see.

57. The Special Rapporteur on torture should investigate the treatment of Basque political prisoners and conduct a mission to the United States to investigate allegations of the use of excessive force. The Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on racism should review compliance with the recommendations they had made and conduct follow-ups to their initial visits to the United States.

58. Mr. DOOLAARD (World Alliance of Reformed Churches), speaking also on behalf of the World Council of Churches, the Lutheran World Federation and the Conference of European Churches, said that member churches in countries where there was no separation of religion and State had issued alarming reports. A

number of Christian organizations had issued a joint written statement with regard to the Blasphemy Law and the growth of religious intolerance in Pakistan, where the Christian minority had been isolated and persecuted. In Uzbekistan, the law on religious organizations had recently been amended so as to require the signature of 100 citizens for the registration of a religious community and to criminalize any unregistered religious activity.

59. The Special Rapporteur had begun to compile a compendium of national enactments on or relating to freedom of religion. It was to be hoped that the information would serve as a basis for an intensified dialogue among governments on religious freedom, either in the United Nations or in regional bodies.

60. Mr. ALI (Afro-Asian People's Solidarity Organization) said that in the past 10 years there had been a deliberate effort to destroy the traditional secularism of the Kashmiri people. Terrorist groups espousing a fundamentalist version of Islam had destroyed educational institutions. In Pakistan, religious schools were preparing a generation of youth which had nothing but hatred for other religions and for tolerant Muslims. The Lashkar-e-Tayba and Jamaat-i-Islami fomented jihad in Kashmir supposedly to cleanse it of its minorities and convert it into a so-called "pure" land. In Kashmir, in the name of religious purity, girls wearing jeans were shot and television channels were banned. A Hurriyat leader had called for the Taliban to visit Kashmir. Presumably, the objective was not tourism.

61. Generations of children born in a country which willfully endorsed religious discrimination and even banned certain religions could not help but carry prejudices into their adult lives, thus reproducing the violence and intolerance which had taken root in Afghanistan and among fundamentalist groups in Kashmir. When a crusade or jihad was declared against a certain religion, then intolerance in the targeted religion could only increase, thus shattering the whole concept of secularism and harmonious coexistence.

62. Ms. WONG (Asian Cultural Forum on Development) said that, in the last quarter of 1998, at least 30 persons in Malaysia had been detained under the Internal Security Act (ISA), which permitted indefinite detention without trial. Some, including former Deputy Prime Minister Anwar Ibrahim, had reportedly been subjected to torture, and others had been sexually assaulted in prison. Thousands of peaceful demonstrators calling for the resignation of the Prime Minister and the repeal of the ISA had been attacked by the police. The authorities appeared to condone the use of excessive force. The police had killed 60 people in 1998, including an eight-month pregnant woman. No satisfactory or transparent investigations had taken place.

63. In Aceh, Indonesia, where at least 7,000 extrajudicial killings had been confirmed since 1989 and thousands more people had gone missing, only one military officer had been convicted. The situation in Malaysia was not as good as it appeared, although it had escaped international scrutiny because of Malaysia's proximity to Burma, East Timor and Aceh, where human rights fared far worse.

64. The international community still had to take steps to encourage human rights and the rule of law and to prevent a further deterioration. The

Commission should send the Special Rapporteurs on torture and detention and extrajudicial, summary or arbitrary executions to both Malaysia and Aceh to investigate the situation.

65. Mr. KAMARUZAMAN (International League for Human Rights) said that impunity and unaccountability had eroded the independence of the Malaysian judiciary, jeopardizing the country's democracy and prosperity. To mention one example, in the case of Anwar Ibrahim, the former Deputy Prime Minister, the presumption of innocence was blatantly ignored, and the Prime Minister and media had conspired to declare the defendant a person of "low morals", a homosexual and an adulterer. Bail had been refused on obscure and unprecedented grounds. The case of Mr. Anwar had done much to destroy the faith of the Malaysian people in their Government and judiciary.

66. The rule of law had to be upheld. The separation of the executive and judicial branches must be reaffirmed, and the executive had to restore accountability at the highest levels of Government. The Commission should urgently express its concern about the erosion of judicial independence and lack of respect for civil and political rights by the Government of Malaysia.

67. Mr. YAYEH (African Association of Education for Development) said that thousands of Ethiopians from all walks of life, including such prominent leaders as Taye Wolde Semayat, Mekonnen Dori, Aberash Berta, Tsegaye Gebre Medhin, Ali Idris and Adem Kamil, were deprived of their liberty. Untold atrocities had been committed against religious leaders and institutions. For example, some 60 Muslims had been killed at the Grand Anwar Mosque in Addis Ababa and the priest at the Saint Stifanos Church in the capital had been gunned down before his congregation.

68. As the Government waged war with Eritrea, the Ethiopian Human Rights Council had noted that war, above anything else, gave rise to extreme violation of human rights. The Government had engaged in misinformation and obstructed the gathering of information by local and foreign journalists.

69. The African Association of Education for Development had taken the initiative of forming an elders' committee composed of prominent citizens from both countries to help seek a peaceful settlement.

70. Ms. STASINS (Socialist International Women) expressed deep concern about the situation of Tamils in the north-east of Sri Lanka, where human rights continued to be systematically violated by the Sri Lankan army and security forces. According to the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1999/62), Sri Lanka was the country with the second highest number of disappearances in the world, and the single most important factor contributing to the problem was impunity.

71. After Government forces had taken the Jaffna Peninsula in April 1996, some 640 persons, most of them young boys and girls, had been placed in custody and never seen again. Amnesty International had eventually concluded that they had been tortured to death. Mass graves indicating that other massacres had occurred had been found in Chemmani and Jaffna, but no investigations had been carried out.

72. The callous murder of Tamils by Government forces clearly fell within the definition of genocide given by the Convention on the Prevention and Punishment of the Crime of Genocide. Democratic Governments providing Sri Lanka with financial aid and weaponry should carefully consider the ethics of such actions.

73. Ms. DONATI (International Save the Children Alliance) said that torture of children was increasing throughout the world. Children were subjected to the same ill-treatment as adults, including rape, sexual assault with a truncheon, beatings, solitary confinement and electric shocks, yet their pain threshold was lower.

74. Despite the provisions of the Convention against Torture and the Convention on the Rights of the Child which prohibited torture and the death penalty for minors and stipulated that detention should be used sparingly and only as a last resort, in some countries the national legislation permitted incommunicado detention, amputation, flogging and capital punishment by stoning. Certain States even permitted the death sentence for children of 12, if it was proven that the accused had "sufficient maturity of understanding". Out of compassion, judges tended to be more lenient with children, but the legal framework in such countries left much up to their discretion.

75. Unwillingness to apply national and international law left children exposed to torture. Failure independently to investigate complaints encouraged further abuse. Under the Convention against Torture, States must automatically investigate whenever there were reasonable grounds to believe that torture took place, regardless of whether the victim filed a complaint. States should also train personnel responsible for child detention and members of the judiciary in human rights, ratify the Convention against Torture and bring their legislation into line with the major human rights instruments.

76. Ms. COCHER (International Federation of ACAT (Action of Christians for the Abolition of Torture)) called for all States to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to make the declaration under articles 21 and 22 of the Convention.

77. Since 1993, the conflict in the Congo had caused over 30,000 deaths and had displaced nearly 600,000 people into the bush, where no humanitarian assistance could reach them. Violations of human rights were constant and systematic. Since December 1998, thousands of people in the southern districts of Brazzaville had been forced to leave their homes owing to the fighting between the cobra militia and Government troops. The cobras had systematically killed thousands more, and some districts had been shelled. People from all walks of life, including medical personnel and human rights activists, were imprisoned and humiliated or summarily killed.

78. The Commission should break the silence around the tragedy in the Congo, encourage the establishment of a humanitarian corridor for displaced people and refugees, and work for a peacekeeping force to be sent to restore peace and security.

79. In the neighbouring Democratic Republic of the Congo, numerous violations of human rights and humanitarian law were being committed by the Government forces and their allies, and also by the rebels and their foreign allies. Since August 1998 many massacres had taken place, especially in the

east. Women were raped, children forcibly enrolled, and extrajudicial executions were becoming more common. The Commission should reinstate the Joint Mission set up under resolution 1997/58.

80. The progress made by the Working Group on the draft optional protocol to the Convention against Torture was to be commended, and the Commission should extend the Group's mandate. The protocol would establish a system of visits to places of detention in order to prevent inhuman treatment, that would be a welcome innovation at the international level.

81. Mr. DAR (International Islamic Federation of Student Organizations) said that torture was a favourite means employed by States which had forcibly occupied territories and exerted control over a population against its will. Torture was used to silence the opposition, even if it was a peaceful political movement. For example, in Indian-occupied Jammu and Kashmir military and paramilitary forces practised torture as part of a deliberate campaign to force the Kashmiri people into submission.

82. Human rights NGOs and the United States Department of State reported that Kashmiris had been subjected to severe beatings, electric shocks, cigarette burns, rape and sexual abuse. Impunity enabled the perpetrators of such crimes to continue. The Commission must act to hold individuals who committed such crimes and the States that sponsored them accountable for their acts.

83. Mr. MASOOD (Muslim World League) said that military and paramilitary forces engaged in conflicts to suppress legitimate struggles for self-determination frequently resorted to summary executions and extrajudicial killings, notably by staging clashes with the people they arrested. The perpetrators often enjoyed legal immunity. The staging technique perfected by Indian forces in the eastern Punjab over the previous 10 years was currently being applied in Jammu and Kashmir. Human rights organizations and Indian press reports had confirmed that those reportedly killed in military encounters had often previously been detained by the authorities and that their bodies often bore signs of torture, an allegation corroborated by information in the United States Department of State report on human rights in India for 1998.

84. International human rights mechanisms could not ignore the systematic killings by Indian forces in occupied Jammu and Kashmir. Effective measures must be taken to ensure the life of the Kashmiri people.

85. Mr. SAFI (World Muslim Congress) said that impunity was the mother of all human rights violations. In some States inadvertent legal lacunae or a lack of enforcement might be responsible. However, some States such as India even went so far as to reward the perpetrators of human rights violations.

86. India had passed laws empowering its security forces in Kashmir with "legal" means not only to arrest anyone or to search any place without a warrant, but also to kill. One act, known as the Terrorist and Disruptive Activities Act (TADA), had been invoked to hold thousands of Indians and Kashmiris in jails, torture centres and official and unofficial interrogation centres throughout the country. Under the TADA, the accused was presumed to

be guilty, and forced confessions were admissible. Pro-Government militants were rewarded with pensions and Government jobs, and formed what Human Rights Watch called "India's secret army".

87. When impunity was sanctioned by the State, the real beneficiary was not the individual perpetrator of human rights violations, but the State itself. It was to be hoped that the newly established International Criminal Court would start working soon to hold such States to account.

88. Mr. TICKOO (Himalayan Research and Cultural Foundation) said that the Kashmiri Pandits, or Hindu minority in Kashmir, had been hounded, hunted, dispossessed and persecuted by Islamic extremists abetted by forces from outside the country. They had spent 10 years in pain, destitution and homelessness. Those Kashmiri Pandits who had stayed in their villages despite threats and provocations continued to be butchered for the sole fact of being non-Muslims. In 1997 and 1998 a number of massacres had taken dozens of lives, including that of an 18-month-old child who had been riddled with bullets.

89. The Muslims of Kashmir shared the ethnicity, history and open-mindedness of the Kashiri Pandits. It had been other Muslims who had dreamt of Islam as an all-conquering, all-subjugating force capable of sweeping the "infidels" away. It was of no concern to the perpetrators of those acts that human lives, a living heritage, a great culture and the very spirit of Islam - which meant peace - would be trampled underfoot.

90. Ms. LESTER (World Christian Life Community), speaking also on behalf of the Jesuit Refugee Service, said that the arbitrary detention of people who were forcibly displaced was one of the many restrictive measures taken by a number of industrialized countries to obstruct and deter the legitimate exercise of the right to seek asylum. Detention upon arrival in a country of asylum could subject refugees to continuing human rights violations. The Human Rights Committee had found in 1997 that the detention of an asylum seeker was arbitrary if it could not be justified in the individual case, which would involve questions relating to the person's identity and intentions as well as the likelihood that he or she would abscond or pose a security risk to the community. The Working Group on Arbitrary Detention in its report (E/CN.4/1999/63) listed 14 guarantees and set out criteria to determine whether the detention of immigrants and asylum seekers was arbitrary.

91. Deprivation of liberty was an inherently punitive measure. Yet a number of Governments persisted in detaining refugees, asylum seekers and stateless persons, including children. The Commission should consider the question of arbitrary detention of such persons at its fifty-sixth session under the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment".

92. Mr. ROJAS (International Human Rights Law Group) expressed concern about the failure of the Cambodian Government to investigate and prosecute serious violations of human rights. To date, only one Khmer Rouge leader, Ta Mok, had been arrested. The Government had decided to try Ta Mok in a national court, despite a report by an international expert stating that the national courts would be incompetent.

93. The Civil Servants Act made it necessary to obtain the express permission of a Government ministry in order to prosecute any civil servants, including police, military and other law enforcement officers, in effect placing them above the law. In recent years many serious violations of human rights had occurred, including deadly grenade attacks and the violent dispersal of a peaceful demonstration which in September 1998 had cause 12 deaths and 25 disappearances, yet no investigations had been carried out.

94. The Commission should appeal to the Cambodian Government to cooperate in establishing an international tribunal to try those responsible for crimes against humanity committed between 1975 and 1979. It should also request Cambodia to abolish the provisions of the Civil Servants Act and call upon it to investigate all human rights violations committed in the country.

95. In Peru, the Government had finally adopted a law defining torture as a crime against humanity. Unfortunately, however, torture had already become an institution commonly used in the struggle against terrorist groups. Frequent and numerous complaints of torture were still being lodged and the number of prosecutions was still very low. The Commission should urge the Peruvian Government actively to undertake impartial investigations in cases of torture.

96. The Working Group on Enforced or Involuntary Disappearances had reported 3,004 disappearances in Peru between 1982 and 1992, the majority of which had never been investigated. In the few cases where responsibility could be established, the perpetrators went unpunished because of the amnesty laws adopted in 1995. The Working Group had called for those laws, which established an "atmosphere of impunity", to be repealed.

97. Mr. SHINOJI (World Federation of Trade Unions) said that the ability to express one's views free from hindrance, fear or oppression was an essential component of democracy and development, as it allowed the pooling of diverse talents to improve people's lives.

98. Freedom of expression was assuming still greater importance in an age of global interdependence. Events far afield influenced the lives of people everywhere. In the Gulf War, the United States had imposed censorship, and a controversy persisted years later about soldiers suffering from the effects of chemicals to which they had been exposed. The situation of people in the former Yugoslavia, the plight of Iraqis subjected to bombing, the brutality in Rwanda or floods in Bangladesh and Latin America had all left their mark on the international community because of the work of the media, which brought those realities into every home. Photographs of the nuclear holocaust in Nagasaki and Hiroshima had spawned a worldwide anti-nuclear movement and fashioned the thinking of an entire generation in Japan.

99. Communism had often been blamed for leaving no place for freedom of expression. Yet capitalist structures that allowed a single person to own multiple newspapers and media channels throughout the world could stifle free expression far more, under the guise of a free market.

The meeting rose at 9 p.m.